INVESTIGATION OF CERTAIN PRICE CAP LOCAL EXCHANGE CARRIER BUSINESS DATA SERVICES TARIFF PRICING PLANS

CenturyLink Response

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CenturyLink hereby provides its responses to the narrative questions in the Commission's *Tariff Investigation Order*[1]. The responses are organized sequentially by paragraph number. CenturyLink also provides additional detail to explain the basis for its entries for certain variables in the associated tables.

I. PARAGRAPH 63.

A. Paragraph 63 Narrative Responses.

Paragraph 63. Circuit_Portability_Method_Expl
Provide a narrative description of all circuit portability provisions in the tariff pricing plan, including any additional provisions pertaining to a circuit portability option included in the tariff pricing plan. In addition, provide the actual text of these provisions. This question calls for a narrative response that must be submitted in a Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 3.

Response:

Before addressing the portability provisions in CenturyLink's tariff plans, CenturyLink first notes the similarity of these provisions to those in CLEC agreements. When buying special access services (as a CLEC) outside its ILEC footprint, CenturyLink frequently takes

[1] *Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans*, WC Docket No. 15-247, Order Initiating Investigation and Designating Issues for Investigation, DA 15-1194 (rel. Oct. 16, 2015) (*Tariff Investigating Order*).

advantage of portability provisions to upgrade to Ethernet services, whether it is purchasing from an ILEC or non-ILEC provider. In fact, it routinely opts for five-year terms for DS1 and DS3 services—to obtain the lowest possible rate—knowing that the agreement's portability provisions will allow it to transition to Ethernet services if necessary. Notably, the portability provisions in non-ILEC providers' agreements often include conditions or restrictions similar to those cited by the CLECs. For example, CenturyLink's purchase agreement with a CLEC that has complained in the special access proceeding of portability restrictions in ILEC agreements (as cited in the *Tariff Investigation Order*) allows CenturyLink to upgrade to a higher capacity service as long as:

> "(i) new Service Element's MRCs are *equal to or greater than* those associated with the Service Element being replaced; and (ii) new Service Element has a Service Element Term *which is equal to or greater than* the remainder of the Service Element Term of the Service Element being replaced, rounded up to the next highest Service Element Term[.]"

And CenturyLink's purchase agreement with another CLEC very active in this docket has virtually identical conditions on portability, as do a number of CenturyLink's purchase agreements with cable providers.

With respect to CenturyLink's tariff plans under investigation here, both its Regional Commitment Plan (RCP) and Special Access Term Discount Plan (TDP) include portability provisions that allow plan subscribers to transition to Ethernet and other services, by waiving early termination fees and adjusting the plans' commitment levels, as long as certain easily-achievable conditions are met.

RCP

The RCP allows a purchaser to reduce its volume commitment, and avoid early termination liability, when it migrates from DS1s or DS3s to Ethernet or other CenturyLink QC-provided service (including from DS1s to DS3s),[2] as long as the customer meets specified conditions. In particular, "[t]he total value of the new service must be equal to or greater than 115% of the remaining value of the existing pricing plan service[]," and the customer agrees to a new pricing plan for the new service.[3] Note the similarity of these conditions to those in non-ILEC agreements discussed above. The RCP does not impose a "portability fee" and does not require that the upgraded service be provided to the same customer or service address as that for the existing service.

The text of the relevant provisions from the RCP:

<u>Section 7.1.3.B.5.c – Termination Liability and Waiver Policy[4]</u>

[2] CenturyLink QC is CenturyLink's ILEC affiliate, formerly known as Qwest Corporation, that maintains the RCP in CenturyLink Operating Companies Tariff F.C.C. No. 11.

[3] CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.8(C).

[4] CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.3.B.5(c).

DS1/DS3 Services included in an RCP may be migrated to other Company provided services (including without limitation, migrations due to the availability of Company replacement technologies) and the commitment level may be reduced by the monthly recurring revenue for the number of circuits migrated to other Company provided services, at the customer's request, without incurring Termination Liability if the customer satisfies the conditions specified in the Waiver Policy, set forth in 7.1.8, following. One of the conditions of the Waiver Policy for migrations to other services is that the total value of the new service must be equal to or greater than 115% of the remaining value of the discontinued DS1/DS3 Services under the existing RCP.

<u>Section 7.1.8 – Waiver Policy</u>[5]

A waiver of [otherwise applicable termination liability] may occur if the customer moves to a different location within the Company territory or migrates to another Company service (e.g., DS1 to DS3 Service, or DS1 Service to FRS, or 2.4 kbps Digital Data Service (DDS) to 56 kbps, or an upgrade in DS3 capacity, or DS3 Service to a greater capacity SST) provided all of the following conditions are met:

- The customer must agree to a new pricing plan for the new service;

- The customer must satisfy the minimum service period requirement. Should the customer choose to discontinue fixed period service prior to completion of the minimum service period, termination charges equal to 100% of the total monthly charges for the remaining months of the minimum service period, will apply;

- The total value of the new service must be equal to or greater than 115% of the remaining value of the existing pricing plan service. Nonrecurring charges and Special Construction charges will not be used for the Waiver calculation;

- The order to disconnect the existing service and the order for the new service are received by the Company at the same time and both orders must reference the application of the Waiver Policy;

- The new service due date must be on or before the due date of the disconnection of the old service, unless the installation is delayed due to Company reasons;

- A new minimum service period applies to the new service; and

- The customer agrees to pay all outstanding recurring and nonrecurring charges. These charges will not be included in the new service pricing plan.[6]

[5] CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.8(C).

[6] This last provision requires the customer to pay any pending bills for recurring or nonrecurring charges associated with the service being disconnected. This provision does not require payment of charges that have not yet accrued at the time of the migration.

TDP

The TDP similarly includes a provision allowing customers to reduce their volume commitment and avoid early termination liability when they migrate from a DS1/DS3 to CenturyLink Embarq-provided Ethernet.[7] Specifically, for every 10 Mbps of Ethernet purchased, the customer's DS1 commitment level under the TDP is reduced by five DS1s, and for every 100 Mbps of Ethernet purchased, the customer's DS3 commitment level will be reduced by one DS3. Like the RCP, the TDP does not impose a "portability fee" and does not require that the upgraded service be provided to the same customer or service address as that for the existing service.

The text of the relevant provision from the TDP:

> <u>Section 7.4.11(J) – Upgrading a TDP Service[8]</u>
>
> When a customer upgrades a DS1 or DS3 service being billed TDP rates to an Ethernet Transport (ET) or Ethernet Virtual Private Line (EVPL) service offered by the Telephone Company, the customer's DS1 or DS3 TDP commitment level will be reduced at the customer's request as set forth following:
>
> - for every 10 Mbps of ET or EVPL , the customer's DS1 commitment level will be reduced by 5 DS1s (e.g., 5 DS1s can upgrade to 10 Mbps ET or EVPL, 10 DS1s can upgrade to 20 Mbps ET or EVPL, etc.)
>
> - for every 100 Mbps of ET or EVPL, the customer's DS3 commitment level will be reduced by 1 DS3 (e.g., 1 DS3 can upgrade to 100 Mbps ET or EVPL, 5 DS3s can upgrade to 500 Mbps ET or EVPL, etc.)
>
> The customer must commit to a new ET three (3) or five (5) year minimum commitment period or EVPL Term Discount Plan for periods of one (1), two (2), three (3) or five (5) years or an EVPL Fixed Rate Term Plan for a period of seven (7) years. Termination liability charges will not apply to upgrades if the ET or EVPL commitment period is greater than or equal to the existing TDP commitment period.
>
> When a disconnect order for a DS1 or DS3 circuit is submitted to the Telephone Company, the customer must note on the disconnect order that the DS1 or DS3 circuit to be disconnected is being or has been upgraded to ET or EVPL service.

Paragraph 63. Cost_All

If Percentage_Commit is reported as 1 and All_Or_Nothing is reported as 1, provide narrative description of any cost justification of the percentage commitment in the context of an all-or-nothing provision. This question calls for a narrative response that must be submitted in the

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[7] CenturyLink Embarq is the CenturyLink ILEC affiliate, formerly known as Embarq, that maintains the TDP in CenturyLink Operating Companies Tariff F.C.C. No. 9.

[8] CenturyLink Operating Companies Tariff F.C.C. No. 9 § 7.4.11(J) (footnote omitted).

Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 4(i).

Response:

Not applicable. CenturyLink reported All_Or_Nothing as 0.

Paragraph 63. Efficiency_All
If Percentage_Commit is reported as 1 and All_Or_Nothing is reported as 1, provide narrative description of any efficiency justification for the percentage commitment in the context of an all-or-nothing provision. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 4(ii).

Response:

Not applicable. CenturyLink reported All_Or_Nothing as 0.

Paragraph 63. Cost_Port
If Percentage_Commit is reported as 1 and EITHER Circuit_Portability_Mandated is reported as 1 OR Circuit_Portability_Option is reported as 1, provide a narrative description of any cost justification of the percentage commitment in the context of a circuit portability provision or option. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 4(iii).

Response:

Not applicable. CenturyLink reported Circuit_Portability_Mandated and Circuit_Portability_Option as 0.

Paragraph 63. Efficiency_Port
If Percentage_Commit is reported as 1 and EITHER Circuit_Portability_Mandated is reported as 1 OR Circuit_Portability_Option is reported as 1, provide a narrative description of any efficiency justification for the percentage commitment in the context of a circuit portability provision or option. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 4(iv).

Response:

Not applicable. CenturyLink reported Circuit_Portability_Mandated and Circuit_Portability_Option as 0.

Paragraph 63. Other_Business_Purpose

If (1) Percentage_Commit is reported as 1, (2) All_Or_Nothing is reported as 1, and (3) EITHER Circuit_Portability_Mandated is reported as 1, OR Circuit_Portability_Option is reported as 1, then enter a narrative description of the business purpose of these provisions. Response must include detailed discussion of efficiency, cost, or other business purpose of predicating the availability of circuit portability on purchasers making a percentage commitment in the context of an all-or-nothing provision. This question calls for a narrative response that must be submitted in a Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 4(v).

Response:

Not applicable. CenturyLink reported All_Or_Nothing, Circuit_Portability_Mandated, and Circuit_Portability_Option as 0.

Paragraph 63. Percentage_Commit_Other_Desc
Where applicable, provide a narrative description of the percentage commitment for other TDM business data services, including the types of other TDM business data services for which a percentage commitment applies, how these services are denominated, the relevant units of measure, and how each type of business data services counts toward this percentage commitment. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 5(iv).

Response:

RCP

Not applicable. The RCP's percentage commitment does not provide discounts for services other than those tied to DS1 or DS3 circuits for which a percentage commitment is noted in Percentage_Commit_DS1 and Percentage_Commit_DS3. The discount applies to DS1 and DS3 circuit elements, which can include Channel Terminations, Channel Terminations combined with a Transport Channel, or Transport Channels alone.

TDP

Types of other TDM business services included in Discount_Quant_Other

- The TDP allows for Special Access DDS (56.0 and 64.0 kbps), and Shared SONET Ring Service (SSRS) discount plans

How these services are denominated

- The services are denominated as circuits which can include Channel Terminations (which can include a multiplexer), Channel Terminations combined with a Transport Channel, or Transport Channels alone.

Relevant units of measure

- The relevant unit of measure for DDS and SSRS is a circuit.

How these business data services count towards the percentage commitment

- A customer may have a separate TDP for each type of circuit: DS1 or DS3 or DDS or SSRS. The discount applies to the purchase commitment within each agreement.

Paragraph 63. Citation_FT_Max_Daily
Provide citations and the full text (which may be a searchable PDF) of all provisions in the tariff that limit the number of circuits that the ILEC can migrate in one day, for a given customer. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 6(ii).

Response:

Under both CenturyLink plans, the number of circuits to be migrated is negotiated between the customer and CenturyLink. There is nothing in the plans that limit the number of circuits that can be migrated per day.

Paragraph 63. Circuit_Migr_Chg_Expl
Where applicable, provide a narrative description of the circuit migration charge, including the types of business data services circuits involved, and how they are charged. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 6(iv).

Response:

Neither plan includes a circuit migration charge.

B. Additional Detail for Other Data Entries Associated with Paragraph 63.

Percentage_Commit_DS1, *Percentage_Commit_DS3*, *Percentage_Commit_Other* (Table I. *Variable Identifiers 5(i), 5(ii), 5(iii))* – The instructions for these fields ask for the percentage commitment "that must be maintained in order to avoid incurring a shortfall penalty." As noted in Response to Paragraph 77, the TDP does not include shortfall penalties. CenturyLink has therefore populated these fields with -9999 to indicate Not Applicable.

II. PARAGRAPH 64.

A. Paragraph 64 Narrative Responses.

Paragraph 64. Volume_Cmt_Other_Expl
Where applicable, provide narrative description of the types of business data services specified in Volume_Commit_Other, including a description of how the commitment is denominated and the relevant units of measure. This question calls for a narrative response that must be

submitted in the Word document per the instructions in the Introduction of this data template. Table III. Variable Identifier 1(iv).

Response:

RCP

Not applicable. CenturyLink reported Volume_Commit_Other as 0.

TDP

Types of other TDM business services included in Volume_Commit_Other

- Where CenturyLink reported a value for Volume_Commit_Other, it relates to DDS.

How these services are denominated

- Each unit of service is a circuit.

Relevant units of measure

- The commitment measure for DDS is on a per circuit basis.

Paragraph 64. Basis_Volume_Commit_Expl
If Basis_Volume_Commit was set to 0, then provide narrative explanation of the basis for setting the volume commitment, including the date for which the quantity of business data services previously purchased may have been used to set the volume commitment. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table III. Variable Identifier 2(ii).

Response:

Not applicable. CenturyLink reported Basic_Volume_Commit as 1.

Paragraph 64. Basis_Change_Expl
Where applicable, provide a narrative description of any change in policy during 2012 through 2014, regarding the basis for setting volume commitments. Provide detailed explanation for how the policy changed and the business justification for the change. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table III. Variable Identifier 3.

Response:

RCP

There was no change in policy during this period.

TDP

There was no change in policy during this period.

B. Additional Detail for Other Data Entries Associated with Paragraph 64.

Volume_Commit_DS1, Volume_Commit_DS3, Volume_Commit_DS3 (Table III. *Variable Identifiers 1(i), 1(ii), 1(iii))* – The instructions for these fields ask for the volume commitment multiplied by the percentage commitment below which triggers a shortfall penalty. As noted in Response to Paragraph 77, the TDP does not include shortfall penalties. CenturyLink has therefore populated this field with the customer's minimum commitment level.

During the 2012-14 reporting period, many customers continued to purchase DS1s and/or DS3s under the grandfathered, circuit-based RCP (rather than the revenue-based RCP established in 2010). CenturyLink has used the 8-digit assigned Agreement_ID to distinguish customers under circuit-based and revenue-based RCP agreements. Specifically, a "C" in the 6th digit of the Agreement_ID denotes a circuit-based agreement, and an "R" in that digit identifies a revenue-based agreement. The Volume_Commit fields are denominated in dollars for those agreements that are revenue-based and contain circuit units for the agreements that are circuit-based.

III. PARAGRAPH 65.

A. Paragraph 65 Narrative Responses.

Paragraph 65. Discount_Quant_Other_Desc
Provide a narrative explanation of the types of all other TDM business data services included in Discount_Quant_Other, how these are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table IIA. Variable Identifier 5(iv).

Response:

Types of other TDM business services included in Discount_Quant_Other

- Table IIA allows only three options: DS1 Channel Terminations, DS3 Channel Terminations, and Other. Based on guidance from Commission staff, CenturyLink has interpreted Discount_Quant_Other broadly to include other services, recognizing that the relevant units are not comparable.

- The RCP applies to two circuit types, DS1s and DS3s, but also includes Multiplexing, Transport Channel Mileage Fixed, Transport Channel Mileage Variable, and Optional Features.

- The TDP applies to three circuit types—DS1, DS3 and Digital Data—but also includes Multiplexing, Transport Channel Mileage Fixed, and Transport Channel Mileage Variable.

- CenturyLink has included only DS1 and DS3 Channel Termination data in Discount_Quant_DS1, Discount_Rev_DS1, Discount_Quant_DS3, and Discount_Rev_DS3. All other services are reported in Discount_Quant_Other_Desc within Table IIA. The associated revenues and usage for each are included.

How these services are denominated

- All quantities represent a monthly average of billed usage, after accounting for factors such as the Percent Interstate Usage, split between switched and special access usage over the same circuits, and meet point where the circuit is split between companies.

- If the response requires an annual average, each quantity has been multiplied by 12.

- Revenues are reported as an annual aggregate amount.

Relevant units of measure

- The relevant unit of measure for the Channel Termination is a flat rated unit for each termination of a circuit to an end-user location.

- The relevant unit of measure for the Multiplexing component is a flat rated unit for each multiplexing arrangement.

- The relevant unit of measure for the Channel Mileage Variable is variable miles for the transport service.

- The relevant unit of measure for the Channel Mileage Fixed is a flat rated unit for each termination of the transport service.

- The relevant unit of measure for the Optional features is a flat rate unit for each optional feature for DS1 or DS3.

Paragraph 65. Undiscounted_Quant_Other_Desc
Provide a narrative explanation of the types of all other TDM business data services included in Undiscounted_Quant_Other, how these are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table IIB. Variable Identifier 3(iv).

Response:

Types of other TDM business services included in Discount_Quant_Other

- Table IIB allows only three options: DS1 Channel Terminations, DS3Channel Terminations, and Other. Based on guidance from Commission staff, CenturyLink has interpreted Discount_Quant_Other broadly to include other services, recognizing that the relevant units are not comparable.

- The RCP applies to two circuit types, DS1s and DS3s, but also includes Multiplexing, Transport Channel Mileage Fixed, Transport Channel Mileage Variable, and Optional Features.

- The TDP applies to three circuit types—DS1, DS3 and Digital Data—but also includes Multiplexing, Transport Channel Mileage Fixed, and Transport Channel Mileage Variable. CenturyLink has included only Channel Termination data in Discount_Quant_DS1, Discount_Rev_DS1, Discount_Quant_DS3, and Discount_Rev_DS3.

- All other services are in Discount_Quant_Other_Desc within Table IIB. The associated revenues and usage for each are included.

How these services are denominated

- All quantities represent a monthly average of billed usage, after accounting for factors such as the Percent Interstate Usage, split between switched and special access usage over the same circuits, and meet point where the circuit is split between companies.

- If the response requires an annual average, each quantity has been multiplied by 12.

- Revenues are reported as an annual aggregate amount.

Relevant units of measure

- The relevant unit of measure for the Channel Termination is a flat rated unit for each termination of a circuit to an end-user location.

- The relevant unit of measure for the Multiplexing component is a flat rated unit for each multiplexing arrangement.

- The relevant unit of measure for the Channel Mileage Variable is variable miles for the transport service.

- The relevant unit of measure for the Channel Mileage Fixed is a flat rated unit for each termination of the transport service.

- The relevant unit of measure for the Optional features is a flat rate unit for each optional feature for DS1 or DS3.

IV. PARAGRAPH 67.

A. Paragraph 67 Narrative Responses.

Paragraph 67.
To enable an assessment of the reasonableness of the thresholds for percentage purchase commitments, the incumbent LECs subject to this investigation must submit in their direct cases the methodology and calculations used to determine the percentage thresholds in the relevant pricing plans. They must also submit the business justification for the percentage commitments included in each relevant plan under investigation. The incumbent LECs must state whether other threshold values were considered at the time the percentage threshold was established and, if so, explain the basis for selection of the threshold in the pricing plan. We also seek data on the potential relationship between percentage commitments and incumbent LECs' costs. The incumbent LECs affirm the relevance of cost to percentage commitments (and other terms and conditions) in their advocacy. For example, CenturyLink asserts percentage commitments play a role in ensuring cost recovery. Verizon states that such terms and conditions are "efforts to reduce transaction costs and address risk-sharing issues." Where, as here, the incumbent LECs have asserted that the practices in question are related to their costs, we seek cost data that will provide an objective measure by which to assess the reasonableness of such commitments. We therefore seek any evidence and data demonstrating whether the level of the volume commitment was related to cost recovery.

Response:

The RCP and TDP were introduced more than 20 years ago by CenturyLink's predecessor companies, U S West Communications (USWC) and Sprint, respectively. Given the passage of time, CenturyLink is unable to provide specific information on the methodologies, calculations, business justifications, or cost data underlying these tariff plans. But a review of the historical context of these plans shows that they were developed to meet the demands of special access customers and provided customer-enhancing innovations over the tariff plans available at that time. CenturyLink has tweaked these plans over the past two decades, to offer features demanded by special access customers, while also adopting reasonable commitments and enforcement mechanisms for these commitments to ensure that the revenues from these plans adequately cover the costs of installing and maintaining the DS1 and DS3 services offered through these tariff plans.

Prior to the launch of the RCP and TDP, customers wishing to purchase discounted special access services from CenturyLink's predecessor companies typically did so through circuit-specific term plans such as USWC's Variable Term Pricing Plan (VTPP). Under such plans, customers commit to maintain 100% of the circuits covered by the plan for a specified period. If the customer disconnects a circuit before the end of that term, it has to pay an early termination charge.

In the mid-1990s, large special access customers successfully persuaded CenturyLink and other ILECs to develop new tariff plans (such as the RCP and TDP) that provide discounts comparable to those in circuit-specific term plans, with the ability to disconnect and replace individual circuits during the term of the plan without an early termination charge, as long as the customer maintains a minimum number of circuits or revenue in the overall plan.

As USWC noted when it first established the RCP, "[c]ustomers have requested a time commitment plan which is not circuit specific but is instead based upon a service commitment level."[9] It further stated that the new, 48-month RCP would allow customers "to move individual DS1Services within USWC's region without incurring termination liabilities[,]" while receiving a discount on their monthly rates that was "comparable to USWC's [circuit-specific] 60 month Variable Term Pricing Plan (VTPP) for DS1 Services."[10]

The RCP and TDP were of course subject to full review by the Commission and special access customers at the time they were introduced.

The portability in the RCP and TDP provided a clear benefit to special access customers, because it allows them flexibility, not found in traditional circuit-specific term plans, to disconnect and move circuits during the commitment period without incurring early termination charges. The RCP and TDP thus are most accurately characterized as flexible term plans, and not volume-based tariff plans. The TDP also allows customers a 90-day review period for any out-of-compliance commitments and a full year after the termination date of their agreement to decide whether to renew the plan for another three- or five-year term. Finally, the new plans are more administratively simple than circuit-specific term plans, as they eliminate the need for special access customers to track terms associated with individual circuits. For all these reasons, the RCP and TDP enabled carrier customers to compete more effectively in providing service to end-user customers.

The plans' percentage commitments function primarily as a means to define the scope of the plans, rather than to "lock in" customer demand. Indeed, many customers have exited the RCP and TDP in recent years. These plans are, and always have been, optional. Moreover, in addition to purchasing special access services on a month-to-month basis, customers are free to remain in circuit-specific term plans, which provide similar discount levels and continue to be available today. The RCP and TDP also do not preclude special access customers from purchasing from alternate providers, as the plans' percentage commitments relate only to customers' purchases from CenturyLink.

CenturyLink incurs real costs to provide special access services, which it has to recover over time through recurring rates for these services. If a customer disconnects a circuit prematurely, CenturyLink risks insufficient cost recovery and stranded assets. Traditional circuit-specific plans dealt with this concern by requiring customers to maintain each circuit in place for a specified term. The RCP and TDP instead spread this risk across the customer's committed base of circuits.

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[9] U S West Communications Access Service, Tariff F.C.C. No. 5, Description and Justification, Private Line Transport Service, Regional Commitment Program, at 1-1 (Sept. 22, 1995).

[10] *Id.*

While the RCP and TDP were developed at the requests of CenturyLink's largest special access customers, the use of percentage commitments (rather than absolute circuit or revenue thresholds) extended the benefits of these new plans to smaller customers as well. Thus, a customer with 100 circuits in a traditional circuit-specific term plan could maintain the same approximate discount when moving to the TDP or RCP, just like a customer with 1000 or 10,000 circuits.

Of course the communications marketplace has changed dramatically in the 20 years since the RCP and TDP were first introduced. DS1 and DS3 services are nearing the end of their life cycle and being rapidly replaced by more functional and flexible services, such as Ethernet and Multiprotocol Label Switching (MPLS). These newer services are available from a variety of non-ILEC providers, who often have market shares comparable or even greater than the ILECs. Given these changes, CenturyLink's special access customers have once again demanded changes to CenturyLink's service offerings, and CenturyLink has responded.

Within the RCP and TDP, CenturyLink has added provisions permitting customers to upgrade to Ethernet and other newer services without penalty. In addition, CenturyLink has created new contract tariff-based plans, such as its Revenue Discount Simplification Plans (RDSPs), that lack any percentage commitments and most of the other terms under investigation in this docket.

V. PARAGRAPH 68.

A. Paragraph 68 Narrative Responses.

Paragraph 68. Percentage commitment in CenturyLink's RCP.
CenturyLink Tariff F.C.C. No. 11 currently requires a percentage purchase commitment of 95 percent to qualify for participation in its Regional Commitment Program (RCP) special access tariff pricing plan. CenturyLink raised the level of the percentage purchase commitment required for participation in its RCP from 90 percent to the current 95 percent in 2010. As part of our investigation, we seek additional information about this change in the percentage purchase commitment level in the RCP. CenturyLink must submit as part of its direct case all evidence and data concerning the methodology and calculations used in making this change, including all analysis it conducted on the impact such change would have on CenturyLink's sales or revenues as well as any evidence or data demonstrating that this change was effected to ensure cost recovery.

Response:

Originally, the RCP's percentage commitment was tied to a customer's circuits that include a channel termination. RCP customers were required to maintain at least 90 percent of these circuits initially covered by the RCP over the term of the customer's original commitment. Over time, CenturyLink's predecessor, Qwest Corporation (Qwest or CenturyLink-QC), noted a shift away from circuits with channel terminations. This enabled the customer to benefit from the 22-percent discount on circuit purchases without the corresponding commitment contemplated in the RCP. In other words, customers could order these discounted circuits under the RCP and then disconnect a portion of them, leading to high volatility in the revenue per circuit, potentially denying CenturyLink's predecessor, Qwest, time to recover the cost of providing them.

In 2010, Qwest restructured the RCP to address this issue. Specifically, it changed the RCP from a commitment plan based on in-service circuits to one based on revenue, so as to encompass the increasing number of DS1s and DS3s that do not include a channel termination. Under the revised plan, RCP customers are required to retain 95 percent of their initially-committed revenue under the plan over the term of the original commitment. As with the original plan, this percentage discount is based on the customer's in-service purchases from CenturyLink QC, rather than its overall volume of special access services, and the RCP does not preclude customers purchasing special access services from other providers.

This change to the RCP triggered no contemporaneous comments or objections from special access customers or the Commission. Moreover, RCP customers were allowed to complete the term of their circuit-based RCP agreement, plus an additional year pursuant to one of the conditions in the *CenturyLink-Qwest Merger Order*[11]. As a result, more than half of the RCP agreements included in CenturyLink's direct case have a circuit-based commitment with a 90 percent percentage purchase commitment.

CenturyLink is submitting the document it was able to find regarding the evidence and data concerning the methodology and calculations used in making this change.[12]

VI. PARAGRAPH 69.

A. Paragraph 69 Narrative Responses.

Paragraph 69. Successor_Vol_Cmt_Other_Expl
Where applicable, provide narrative explanation of all other TDM business data services reported in Successor_Vol_Commit_Other, including a description of how these services are denominated and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table IV. Variable Identifier 5(iv).

Response:

Not applicable. CenturyLink reported Successor_Vol_Commit_Other as 0.

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[11] In the Matter of Applications filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control, WC Docket No. 10-110, Memorandum Opinion and Order, FCC 11-47, 26 FCC Rcd 4194 (rel. Mar. 18, 2011) (*CenturyLink-Qwest Merger Order*).

[12] This document is included as Highly Confidential Attachment 68-A. CenturyLink has also withheld one responsive document because it is subject to the attorney-client privilege.

Paragraph 69. Predecessor_Vol_Commit_Other_Desc
Where applicable, provide a narrative explanation of all other TDM business data services reported in Predecessor_Vol_Commit_Other, including a description of how these services are denominated and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table IV. Variable Identifier 6(iv).

Response:

Not applicable. CenturyLink reported Predecessor_Vol_Commit_Other as 0.

Paragraph 69. Predecessor_End_Cmt_Other_Expl
If applicable, provide a narrative explanation of all other TDM business data services reported in Predecessor_End_Commit_Other, including a description of how these services are denominated and the relevant units of measure on a monthly basis. This question calls for a narrative response that must be submitted in a Word document per the instructions in the Introduction of this data template. Table IV. Variable Identifier 7(iv).

Response:

Not applicable. CenturyLink reported Predecessor_End_Commit_Other as 0.

VII. PARAGRAPH 70.

A. Paragraph 70 Narrative Responses.

Paragraph 70. Ethernet_Other_Commit_Desc
Where applicable, provide narrative description of the types of other TDM business data services referenced in Ethernet_Other_Commit and a description of how Ethernet services may be used to count toward this percentage commitment. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 1(iv).

Response:

RCP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the RCP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to Ethernet or other CenturyLink QC-provided service, as long as the customer meets specified conditions in Sections 7.1.3.B .5.c and 7.1.8.[13]

[13] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of these tariff provisions).

TDP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the TDP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to CenturyLink Embarq-provided Ethernet service, as long as the customer meets specified conditions in Section 7.4.11(J).[14]

Paragraph 70. Citations_FT_DS1
Where applicable, provide, using a searchable PDF or text format, the full text of all provisions in the tariff concerning how Ethernet purchases are eligible to count toward fulfillment of DS1 channel terminations purchase commitments (i.e., the product of the percentage commitment and the volume commitment), and include citations to those provisions. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 2(i).

Response:

RCP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the RCP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to Ethernet or other CenturyLink QC-provided services, as long as the customer meets specified conditions in Sections 7.1.3.B .5.c and 7.1.8.[15]

TDP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the TDP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to CenturyLink Embarq-provided Ethernet service, as long as the customer meets specified conditions in Section 7.4.11(J).[16]

Paragraph 70. Citations_FT_DS3
Where applicable, provide, using a searchable PDF or text format, the full text of all provisions in the tariff concerning how Ethernet purchases are eligible to count toward fulfillment of DS3 channel terminations purchase commitments (i.e., the product of the percentage commitment and the volume commitment), and include citations to those provisions. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 2(ii).

Response:

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[14] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of this tariff provision).

[15] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of these tariff provisions).

[16] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of this tariff provision).

RCP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the RCP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to Ethernet or other CenturyLink QC-provided service, as long as the customer meets specified conditions in Sections 7.1.3.B .5.c and 7.1.8.[17]

TDP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the TDP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to CenturyLink Embarq-provided Ethernet service, as long as the customer meets specified conditions in Section 7.4.11(J).[18]

Paragraph 70. Citations_FT_Other

Where applicable, provide using a searchable PDF or text format, the full text of all provisions in the tariff concerning how Ethernet purchases are eligible to count toward fulfillment of purchase commitments (i.e. the product of the percentage commitment and the volume commitment), other than DS1 and DS3 channel terminations purchase commitments, and include citations to those provisions. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 2(iii).

Response:

RCP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the RCP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to Ethernet or other CenturyLink QC-provided service, as long as the customer meets specified conditions in Sections 7.1.3.B .5.c and 7.1.8.[19]

TDP

In addition to DS1s and DS3s, the TDP's percentage commitment applies to Special Access DDS (56.0 and 64.0 kbps), DS3-to-DS1 and DS1-to-DS0 multiplexing and Shared SONET Ring Service (SSRS).[20] Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the TDP allows a purchaser to reduce its

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[17] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of these tariff provisions).

[18] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of this tariff provision).

[19] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of these tariff provisions).

[20] *See* Response to Paragraph 63, Percentage_Commit_Other_Desc.

commitment level, and avoid early termination liability, when it migrates to CenturyLink Embarq-provided Ethernet service, as long as the customer meets specified conditions in Section 7.4.11(J).[21]

Paragraph 70. Citations_Other_Desc
Where applicable, provide narrative description of the types of other TDM business data services, other than DS1 channel terminations and DS3 channel terminations, whose percentage commitment may be fulfilled by Ethernet purchases. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 2(iv).

Response:

RCP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the RCP allows a purchaser to reduce its volume commitment, and avoid early termination liability, when it migrates from DS1s or DS3s to Ethernet or other CenturyLink QC-provided service, as long as the customer meets specified conditions in Sections 7.1.3.B .5.c and 7.1.8.[22]

TDP

Ethernet purchases do not count toward percentage commitments. But, as previously discussed, the TDP allows a purchaser to reduce its commitment level, and avoid early termination liability, when it migrates from DS1s or DS3s to CenturyLink Embarq-provided Ethernet service, as long as the customer meets specified conditions in Section 7.4.11(J).[23]

Paragraph 70. Business_Reason_Ethernet_Limit
Provide a narrative description of the business rationale for each provision, condition, qualification, or limitation on technology migration, such as limitations on the counting of Ethernet purchases toward the fulfillment of applicable percentage commitments. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 3.

Response:

The RCP and TDP were first introduced in the mid-1990s, before Ethernet service was available. Ethernet and DS1/DS3 services are very distinct services. And the Commission generally has applied more flexible regulation to Ethernet than DS1/DS3 services. For these reasons,

[21] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of this tariff provision).

[22] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of these tariff provisions).

[23] *See* Response to Paragraph 63, Circuit_Portability_Method_Expl (providing full text of this tariff provision).

CenturyLink established portability provisions that allow RCP and TDP customers to migrate to Ethernet, while reducing their RCP or TDP commitments, respectively.

VIII. PARAGRAPH 71.

A. Paragraph 71 Narrative Responses.

Paragraph 71. Service_Bundle_DS1
Narrative description of the type, number, and capacity of Ethernet services sold that offset the DS1 channel termination percentage commitments as reported in Ethernet_Counted_DS1, how those Ethernet services were denominated and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table V. Variable Identifier 6(ii).

Response:

Not applicable. CenturyLink reported no agreements that met the criteria specified in Ethernet_Counted_DS1.

Paragraph 71. Service_Bundle_DS3
Narrative description of the type, number, and capacity of Ethernet services sold that offset the DS3 channel termination percentage commitments as reported in Ethernet_Counted_DS3, how those Ethernet services were denominated and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table V. Variable Identifier 6(iv).

Response:

Not applicable. CenturyLink reported no agreements that met the criteria specified in Ethernet_Counted_DS3.

Paragraph 71. Service_Bundle_Other
Where applicable, provide narrative description of the type, number, and capacity of Ethernet services sold that offset the other TDM business data services percentage commitments as reported in Ethernet_Counted_Other. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table V. Variable Identifier 6(vi).

Response:

Not applicable. CenturyLink reported no agreements that met the criteria specified in Ethernet_Counted_Other.

Paragraph 71. Ethernet_Rev_Ctd_Other_Expl
If applicable, and if not already provided above, provide narrative description of the other TDM business data services whose percentage commitment was offset by Ethernet purchases as

reported in Ethernet_Rev_Counted_Other. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table V. Variable Identifier 7(iv).

Response:

Not applicable. CenturyLink reported no agreements that met the criteria specified in Ethernet_Rev_Counted_Other.

Paragraph 71. TDM_Offset_Other_Expl
If applicable, and if not already provided above, provide narrative description of the other TDM business data services whose percentage commitment was offset by Ethernet purchases as reported in TDM_Offset_Other. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table V. Variable Identifier 8(iv).

Response:

Not applicable. CenturyLink reported no agreements that met the criteria specified in TDM_Offset_Other.

Paragraph 71. TDM_Offset_Rev_Other_Expl
If applicable, and if not already provided above, provide a narrative description of the other TDM business data services whose percentage commitment was offset by Ethernet purchases as reported in TDM_Offset_Rev_Other, including the types of business data services, how they are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table V. Variable Identifier 9(iv).

Response:

Not applicable. CenturyLink reported no agreements that met the criteria specified in TDM_Offset_Rev_Other.

B. Additional Detail for Other Data Entries Associated with Paragraph 71.

CenturyLink has no agreements that met the criteria for Table V. CenturyLink therefore has reported no data for this table.

IX. PARAGRAPH 77.

A. Paragraph 77 Narrative Responses.

Paragraph 77. New_Vol_Commitment_Oth_Expl
Where applicable, provide a narrative description of New_Volume_Commitment_Other, including a description of the type of business data services included, how these business data

services are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VI. Variable Identifier 7(iv).

Response:

Not applicable. CenturyLink reported New_Volume Commitment_Other as 0.

Paragraph 77. Shortfall_Penalty_Desc
Narrative description of how the shortfall penalty was calculated for this shortfall. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VI. Variable Identifier 8(ii).

Response:

RCP

For each month the eligible monthly recurring revenue falls below the purchase commitment level, the customer will be charged a shortfall on its next month's billing. The shortfall amount will be the difference between the purchase commitment amount and the actual monthly recurring revenue. The applicable shortfall charge(s) appears on the next month's billing. Despite the shortfall, the customer receives the RCP discount on the full amount of its purchase commitment.

For example, a customer who commits to $28,500 for DS1 circuits but only has $25,000 is charged a shortfall level of $3,500. Further, the RCP credit is determined by multiplying the monthly recurring revenue commitment level of $28,500 times 22% which equals the RCP credit of $6,270. Thus, even though there is a shortfall, the bill will show the full RCP credit. The shortfall charge of $3,500 and the RCP credit of $6,270 will appear on the RCP customer's next month's billing.

As noted, a majority of RCP customers remained on the grandfathered circuit-based RCP (with a 90 percent percentage purchase commitment) during the reporting period. Under this grandfathered plan, if a customer's in-service circuits fall below the commitment level in a given month, the customer will be charged a shortfall on its next month's billing. The shortfall amount is calculated by multiplying the average DS1 or DS3 rate times the difference between the commitment level and the in-service circuits. Despite the shortfall, the customer receives the RCP discount on the full amount of its purchase commitment.

If a customer's shortfall is due to the sale of serving wire centers or exchanges of both end points of the circuit, a shortfall charge will not apply.

TDP

The TDP does not have a shortfall penalty. Rather, the customer will incur early termination liability if it remains below the minimum commitment threshold for more than 90 days. In that case, the customer will be billed termination liability charges for the number of circuits below the minimum commitment threshold, and the customer's commitment level will be decreased to 110 percent of the customer's current in-service level. For example, a customer who purchased 150 circuits and whose minimum commitment threshold therefore is 135 circuits (90% of 150), but has 125 circuits in-service for a 90-day period, will be billed termination liability charges for 10 circuits, and the customer's commitment level will be decreased to 138 (110% of 125). If the customer remains below the minimum commitment level for less than 90 days, the customer will not incur early termination liability.

Paragraph 77. Shortfall_Other_Desc
Where applicable, provide a narrative description of the shortfall of all other TDM business data services, including the types of business data services involved, how these services are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VI. Variable Identifier 9(iv).

Response:

Not applicable. CenturyLink reported 0 Shortfall_Other as 0.

X. PARAGRAPH 78.

A. Paragraph 78 Narrative Responses.

Paragraph 78.
In our inquiry into the reasonableness of incumbent LEC shortfall fees, the incumbent LECs subject to this investigation must also submit in their direct cases for the plans under examination the following information: (1) tariff and plan names and specific section numbers where shortfall provisions are found in the tariffs, (2) an explanation of the justification of the shortfall penalties and their amounts, (3) a description of the methodologies used to calculate the levels of the shortfall penalties along with showing the calculations, (4) all relevant information and data inputs used to calculate these, (5) an explanation of how each shortfall charge provision in the plan reflects costs incurred by the incumbent LEC as a result of the shortfall, and (6) a detailed description and quantification of such costs that are incurred by the incumbent LEC in a shortfall situation, including any relevant calculations performed to derive such costs. The incumbent LECs subject to this investigation have asserted that these fees are at least in part designed to recover their costs. To the extent shortfall penalties are intended to recover costs that would not have been incurred but for the shortfall, the incumbent LECs must also submit in their narrative responses: (7) all cost data that explains and justifies the level of the shortfall penalties, (8) a description and quantification of the costs that incumbent LECs incur in a shortfall situation, and (9) the mathematical calculations used to derive that cost.

Response:

RCP

(1) Tariff and Plan Names and Section Numbers of Shortfall Provisions – Regional Commitment Program, CenturyLink Operating Companies Tariff F.C.C. No. 11, § 7.1.3.B.3.c.

(2) Justification of Shortfall Charges and Their Amounts – Shortfall charges are intended to enforce commitments made by the customer in exchange for plan discounts and ensure that CenturyLink can recover the costs associated with provisioning the connectivity that the customer originally requested. Without these charges, customers could ignore their commitments without consequence.

(3) Description of Methodologies and Calculations of Shortfall Charges – For each month the customer's monthly recurring revenue falls below its commitment level, the customer will be charged a shortfall on its next bill. The net shortfall amount will be the difference between the commitment amount and the actual monthly recurring revenue, minus the applicable discount. For example, a customer who commits to $28,500 for DS1 circuits but only has $25,000 in monthly recurring revenue will be charged a shortfall level of $3,500. Since the customer receives the discount on the full commitment amount. In this example, the net shortfall is actually $2,730. The shortfall calculation for customers on the grandfathered RCP is similar, except it is based on circuits, rather than revenues.

(4) Relevant Information and Data Inputs Used to Calculate Shortfall Charges – See response to subpart (3).

(5) Explanation of How Shortfall Charges Reflect Costs Incurred by the ILEC – If a customer enters into a shortfall situation under the RCP, the customer is charged for the amount of revenue that it is short of the commitment. The RCP's shortfall provision ensures that the customer meets its obligations under the tariff, and specifically that it retains the revenues that formed the basis for the 22-percent discount provided to the customer under the RCP. CenturyLink meets its commitment to give the full discount on the purchase commitment under the customer's agreement. If the customer was able to disconnect circuits without regard to its revenue commitment, CenturyLink would not be able to recover the cost of providing these circuits. The shortfall provision is particularly important because the RCP offers circuit portability, meaning that CenturyLink's costs must be recovered over a group of circuits, rather than on a circuit-by-circuit basis. In addition, the cost recovery for each circuit includes a portion of "shared network" based on the total quantity of all circuits. If the quantity of those circuits goes down substantially, CenturyLink's cost of the shared network would not be recovered.

(6) Description and Quantification of Costs Incurred by ILEC in Shortfall Situation – With each circuit installed, CenturyLink incurs costs in deploying equipment necessary to provide DS1 or DS3 service, associated cable and wire facilities, and labor for installing and maintaining the circuit. These up-front costs generally are recovered over time. CenturyLink sets its discounted prices under the RCP to recover these costs. In addition, on-going costs include maintenance, taxes, debt service, and other expenses. If CenturyLink cannot charge those recurring rates over the anticipated length of time, its costs cannot be recovered.

(7) Cost Data that Explains and Justifies Level of Shortfall Charges – CenturyLink does not maintain costs directly associated with Shortfall Charges. Rather the costs are incurred in

providing the service. CenturyLink would have no incentive to discount prices if not for the additional commitment from the customer to meet their side of the value proposition. With the current discount percent of 22%, absent the commitment from the customer, the current discount percent would have to be re-evaluated. See also responses to subparts (5) and (6).

(8) Description and Quantification of Costs that ILECs Incur in Shortfall Situation – CenturyLink does not maintain costs directly associated with Shortfall Charges. Rather the costs are incurred in providing the service. CenturyLink would have no incentive to discount prices if not for the additional commitment from the customer to meet their side of the value proposition. See also responses to subparts (5) and (6).

(9) Mathematical Calculations Used to Derive that Cost – See responses to subparts (6), (7), and (8).

TDP

There is no shortfall penalty associated with the TDP. If a customer falls below its commitment level for more than 90 consecutive days, it is charged termination liability for the quantity of circuits short of the commitment and the customer's commitment level is reduced accordingly.

XI. PARAGRAPH 80.

A. Paragraph 80 Narrative Responses.

Paragraph 80.
In order to enable an assessment of the reasonableness and potentially discriminatory nature of upper percentage thresholds, the incumbent LECs subject to this investigation must submit in their direct cases all information and data regarding the methodology and calculations used to determine upper percentage thresholds. Incumbent LECs are required to answer the following questions: What business justifications are there for using upper percentage thresholds? How were these thresholds set? Were other thresholds considered and, if so, on what basis was the specific threshold in the pricing plan selected? Is there an efficiency rationale for requiring a buyer to increase percentage commitments to retain the discount credit or other benefit offered under the pricing plan? To the extent that percentage thresholds are related to economies of scale, we require incumbent LECs to submit as part of their direct cases an explanation of how and to submit all evidence demonstrating such relationship. The incumbent LECs must also submit any evidence and data showing whether the thresholds are calculated to recover any additional costs incurred in providing the increased number of services or are in any way related to cost recovery.

Response:

Neither the RCP nor the TDP charge a penalty for circuits above the customer's commitment level or upper threshold, respectively. Both plans have mechanisms to adjust commitment levels to allow the customer to continue to receive a discount when its purchases exceed that commitment level or upper threshold.

RCP

The RCP does not have an upper percentage threshold, as the *Tariff Investigation Order* appears to recognize.[24] Any revenue in the plan—including that above the original commitment level—is subject to the RCP discount. At the time of an annual review, if the customer's revenue in the plan exceeds its original commitment level, the plan is adjusted to the customer's current revenue. This mechanism allows the customer to receive discounts for increasing purchases. If the customer's revenue in the plan exceeds the commitment level only between annual reviews (and not *at* the annual review), no change is made to the customer's commitment level.[25]

TDP

What business justifications are there for using upper percentage thresholds? Under the TDP, a customer will get TDP discounts on all of its circuits purchased under the plan as long as its volume stays between 90 and 130 percent of its initial commitment. Most TDP purchasers choose to have their commitment levels increase automatically if the 130% threshold is exceeded.[26] If so, the discount continues to apply to the newly-increased service volume.

If a customer does not choose this option, then its commitment level will remain as 90 to 130 percent of its initial commitment. Within the range, the customer may install and/or disconnect circuits to accommodate changes in business needs over the commitment period. If, on a monthly basis, a customer happens to go over the upper threshold, the customer is notified and has 90 days to react to the situation, by increasing its commitment level or reducing the number of circuits covered by the TDP, by moving circuits to month-to-month billing. In practice, customers in this situation sometimes choose to remove from the TDP circuits that it intends to disconnect soon. The customer can also choose to raise its commitment level by the number of circuits necessary to brings it back into compliance with the terms of the agreement.

In any case, CenturyLink's billing department works closely with customers to figure out their best option. Until it removes circuits from the plan, the customer will get the TDP discounts even on the circuits above the 130 percent threshold. If the customer's circuit count drops below the upper threshold within 90 days, no further action is taken, allowing for normal aberrations in demand. However, if the circuit count remains above the upper threshold, the circuits that caused the customer to exceed this threshold are charged month-to-month rates. Since the circuits that are over the commitment level are under no commitment, the customer may disconnect those circuits at any time without incurring

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[24] *See Tariff Investigation Order* at ¶ 79 n.225 (identifying plans with upper percentage threshold, without listing the RCP).

[25] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.3.B.4a.

[26] *See* CenturyLink Operating Companies Tariff F.C.C. No. 9 § 7.4.11(F) (TDP customers may request that Embarq "automatically increase the customer's TDP commitment level when the 130% commitment threshold, as set forth in 7.4.11(B) preceding, is exceeded.").

termination liability. In situations where the customer has not responded within 90 days, CenturyLink's billing department moves the most recently activated circuit or circuits to month-to-month billing to get the customer back into compliance. CenturyLink is not aware of any complaints from customers during overage situations.

The TDP's upper threshold serves three primary purposes. *First*, it allows the customer greater flexibility in managing its needs than under a traditional term discount plan. CenturyLink understands the difficulty of predicting circuit needs over a 3- to 5-year horizon and therefore provides the expanded flexibility requested by customers through the TDP. *Second*, it sets clear expectations for both the customer and CenturyLink. Without an upper threshold, a customer could get the benefit of the TDP's discount without the corresponding commitment necessary to recover the cost of providing the service. In an extreme example, a customer could commit 50 circuits to a 5-year TDP term, purchase 1,000 circuits under the plan, and then disconnect 950 of them after a year, thereby subjecting CenturyLink to great expense and preventing CenturyLink from recovering its costs. The upper threshold ensures that the customer retains a commitment for any circuits subject to discounted rates. *Third*, the upper threshold provides a degree of predictability to assist CenturyLink's network personnel with purchasing and planning.

How was this threshold set? This plan was introduced in 1994. Given the passage of time, we have no information on how these thresholds were set.

Were other thresholds considered and, if so, on what basis was the specific threshold in the pricing plan selected? Given the passage of time, we have no information at this time on whether alternatives were considered.

Is there an efficiency rationale for requiring a buyer to increase percentage commitments to retain the discount credit or other benefit offered under the pricing plan? Yes. Without an upper threshold, the customer has no rational incentive to commit to more than a single circuit. Thus, without an upper threshold or a mechanism to increase the customer's commitment level with increasing purchases, it would not be possible to provide the flexibility made available through the TDP—particularly as compared to traditional circuit-specific term plans.

To the extent that percentage thresholds are related to economies of scale, we require incumbent LECs to submit as part of their direct cases an explanation of how and to submit all evidence demonstrating such relationship. The thresholds are not related to economies of scale.

The incumbent LECs must also submit any evidence and data showing whether the thresholds are calculated to recover any additional costs incurred in providing the increased number of services or are in any way related to cost recovery. As discussed above, the TDP's upper threshold helps ensure that CenturyLink recovers the cost of providing circuits that exceed the threshold.

XII. PARAGRAPH 81.

A. Paragraph 81 Narrative Responses.

Paragraph 81. Citation_FT_UPT
If the tariff pricing plan has an upper percentage threshold, then provide the full text (which may be a searchable PDF) and a citation to the section number of the tariff pricing plan containing the upper percentage threshold provision. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 2.

Response:

RCP

Not Applicable. The RCP does not have an upper percentage threshold.[27]

TDP

The instructions for Table 1 define an "upper percentage threshold" as a threshold "above which an overage penalty is triggered if a customer's purchases exceed that threshold."[28] Table VII, in turn, defines an "overage penalty" as a fee assessed on a customer for exceeding an upper percentage threshold. The TDP does not impose such fees if a customer exceeds the 130 percent threshold. Instead, the customer receives a discount on its purchases above that threshold and has 90 days to either increase its commitment or reduce the number of circuits covered by the TDP.

The provisions related to the TDP's 130 percent threshold are found in Section 7.4.11(B) and (E) of the TDP.[29]

The text of these provisions:

> Section 7.4.11(B) – Commitment Level
> All eligible special access rate elements for a given circuit (channel termination, channel mileage termination (fixed), channel mileage facility (per mile), multiplexing or ring connection and ring transport) must be ordered for the same commitment period with the same service date for the same customer. A customer establishes a TDP by committing all or a portion of their in-service circuits to a minimum term of 3 years up to a maximum term of 5 years. During the term of the selected TDP, the customer must maintain an in-service commitment threshold of not less than 90% nor more than 130% of the committed circuits.

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[27] *See* Response to Paragraph 80.

[28] *Tariff Investigation Order*, Table I instructions (Field Upper_Percentage_Threshold).

[29] CenturyLink Operating Companies Tariff F.C.C. No. 9 § 7.4.11(B), (E).

As long as a customer's actual in-service level of circuits remains within the commitment threshold, the customer will be billed the TDP rate for all eligible rate elements. Additionally, if a customer's in-service level exceeds the initial in-service level by no more than 30%, the customer will be billed the TDP rates for all eligible rate elements. For example, the customer has 200 DS1 circuits and elects to commit 150 circuits to a 3 year TDP. The customer will be billed TDP rates as long as the in-service level of circuits is equal to or greater than 135 (90% minimum threshold) but not more than 195 (130% maximum threshold).

If the customer's in-service request exceeds the initial service level by more than 30%, the customer will be billed the month-to-month rate for all facilities above the upper limit of the commitment threshold. If the customer's in-service level falls below the minimum commitment threshold, the customer will be billed termination liability charges for the number of circuits below the minimum commitment threshold, and the customer's commitment level will be decreased to 110 percent of the customer's current in-service level. For example, a customer whose minimum commitment threshold is 135 circuits (90% of 150), but only has 125 in-service, will be billed termination liability charges for 10 circuits, and the customer's commitment level will be decreased to 138 (110% of 125).

<u>Section 7.4.11(E) – 90 Day Review Period</u>
No adjustments in monthly billing for a TDP, for being above or below the commitment threshold described in (B) preceding, will take place until 90 days after Telephone Company written notification to the customer that the commitment threshold has been exceeded or has not been met. This will ensure that customers will not be penalized for aberrations in channel termination and/or multiplexer counts caused by timing differentials in disconnection and installation.

Customer's bills will not be adjusted for being outside the threshold described in 7.4.11(B) preceding during the 90 day review period. Additionally, customers will continue to be billed the adjustments (following the 90 day review period) for being outside the described threshold until the commitment level is met or re-established. A new 90 day review period will be initiated if the customer's actual in-service level subsequently falls outside the described threshold.

Paragraph 81. Overage_Pct_Thrs_Other_Desc
If applicable, provide a narrative description of the other TDM business data services to which the Overage_Percent_Threshold_Other applies, including the type of business data services, how they are denominated, the relevant units of measure, and how each type of business data services counts toward the overage calculation. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 3(iv).

Response:

RCP

The RCP does not include an upper percentage threshold.[30] It also does not impose overage penalty charges. Any revenue in the plan—including that above the original commitment level—is subject to the RCP discount. At the time of an annual review, if the customer's revenue in the plan exceeds its original commitment level, the plan is adjusted to the customer's current revenue. This mechanism allows the customer to receive discounts for increasing purchases. If the customer's revenue in the plan exceeds the commitment level only between annual reviews (and not *at* the annual review), no change is made to the customer's commitment level.[31]

TDP

The Special Access Term Discount Plan applies to Special Access DDS (56.0 and 64.0 kbps), DS3-to-DS1 and DS1-to-DS0 Multiplexing, and Shared SONET Ring Service.

Paragraph 81. Citation_FT_Auto_Incr_Overage
If the pricing plan requires an automatic increase of the volume commitment of a purchaser that exceeds an upper percentage threshold, provide the full text of the provision (which may be a searchable PDF) and a citation to the relevant section of the pricing plan. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table I. Variable Identifier 5.

Response:

RCP

Any revenue in the plan—including that above the original commitment level—is subject to the RCP discount. At the time of an annual review,[32] if the customer's revenue in the plan exceeds its original commitment level, the plan is adjusted to the customer's current revenue.

The text of the RCP provision setting forth the monthly/annual review process:

Section 7.1.3.B.4(a) – Increasing the RCP Commitment Level
At the customer's written request, the Company will validate the customer's commitment level either monthly or annually to ensure that the customer maintains the 95% minimum commitment. If customer selects the monthly option, the Company will automatically increase the monthly recurring revenue commitment level each month that the monthly recurring revenue for in-service circuits increases except as specified for DS3 in 2.h., preceding. If the monthly recurring revenue for DS1/DS3 circuits has decreased from the previous month's commitment level, the commitment level will not decrease.

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[30] *See* Response to Paragraph 80.

[31] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.3.B.4(a).

[32] A customer can also choose to have a monthly review, though no current unaffiliated customer has done so.

If customer selects the annual option, the Company will validate the commitment level annually to ensure that the customer maintains the 95% minimum commitment. At the time of the annual review, the commitment level will be changed by the Company to reflect 95% of the current monthly recurring revenue for in-service DS1/DS3 circuits if the monthly recurring revenue for Company-provided circuits has increased from the previous year. If the monthly recurring revenue for DS1/DS3 circuits has decreased from the previous year, the commitment level will remain the same for the next 12 months.

TDP

The TDP does not require an automatic increase of the commitment of a purchaser that exceeds the 130% threshold. But, as noted, most TDP purchasers choose to have their commitment levels increase automatically if the 130% threshold is exceeded after the 90-day review period.[33]

B. Additional Detail for Other Data Entries Associated with Paragraph 81.

Overage_Percent_Threshold_DS1, Overage_Percent_Threshold_DS3, Overage_Percent_Threshold_Other (Table I, Variable Identifiers 3(i), 3(ii), 3(iii)—These fields in Table I ask for the maximum percentage of a volume commitment that a customer may purchase without incurring an "overage penalty." Table VII, in turn, defines an overage penalty as a fee assessed on a customer for exceeding an upper percentage threshold. As noted, neither the RCP nor the TDP include such fees. For the RCP and TDP, CenturyLink has marked these fields as "9999," to signify they are not applicable, given that neither plan has an "overage penalty."

XIII. PARAGRAPH 83.

A. Paragraph 83 Narrative Responses.

Paragraph 83.
To enable an assessment as to whether overage penalties are reasonable or reasonably discriminatory, the incumbent LECs under investigation must submit in their direct cases a narrative description of the methodology for calculating the level of the overage penalty. In addition, the carriers must respond to the following questions: Were other levels or types of penalties considered and, if so, on what basis was the overage penalty in the pricing plan selected? Is there an efficiency rationale for the overage penalty? To what extent are overage penalty levels designed to recover incumbent LECs' costs? If so, the incumbent LECs must identify the costs they would incur in serving such increases in demand that would not otherwise be recoverable through their tariffed rates under the plan at issue.

[33] *See* Response to Paragraph 80.

Response:

RCP

The RCP does not contain an upper percentage threshold.[34] Nor does it impose overage penalties, as defined in Table VII.

TDP

The TDP does not impose overage penalties, as defined in Table VII.[35]

XIV. PARAGRAPH 84.

A. Paragraph 84 Narrative Responses.

Paragraph 84. Upper_Pct_Threshold
The upper percentage threshold associated with the pricing plan. If there are multiple upper percentage thresholds in the relevant agreement, specify the upper percentage threshold relevant to this overage occurrence. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VII. Variable Identifier 7.

Response:

RCP

There is no upper percentage threshold included in the RCP.[36]

TDP

130%.

Paragraph 84. Overage_Penalty_Desc
Provide a narrative description of how Overage_Penalty was calculated for this overage occurrence, including a description of the inputs, how these inputs are denominated and the relevant units of measure, as well as the calculation used. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VII. Variable Identifier 8(ii).

Response:

RCP

The RCP does not include overage penalties, as defined in Table VII.[37] CenturyLink has reported Overage_Penalty as $0.

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[34] *See* Response to Paragraph 80.

[35] *See* Response to Paragraph 81, Citation_FT_UPT.

[36] *See* Response to Paragraph 80.

[37] *See* Response to Paragraph 81, Citation_FT_UPT.

TDP

The TDP does not include overage penalties, as defined in Table VII.[38] CenturyLink has reported Overage_Penalty as $0.

Paragraph 84. Overage_Other_Expl
Where applicable, provide a narrative explanation of how Overage_Other was calculated, including a description of the type of all other TDM business data services included, how these are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VII. Variable Identifier 9(iv).

Response:

Not applicable. CenturyLink reported Overage_Other as 0. CenturyLink has reported Overage Penalty as $0.

Paragraph 84. Overage_Rev_Other_Expl
Where applicable, and if not already included in (9) (iv) above, provide a narrative explanation of how Overage_Rev_Other was calculated, including a description of the type of other TDM business data services included, how these are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VII. Variable Identifier 10(iv).

Response:

Not applicable. CenturyLink reported Overage_Rev_Other as 0.

Paragraph 84. Volume_Increase_Other_Expl
Where applicable, provide a narrative explanation of how Volume_Increase_Other was calculated, including a description of the type of other TDM business data services included, how these are denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VII. Variable Identifier 12(iv).

Response:

RCP

Not applicable. CenturyLink reported Volume_Increase_Other as 0.

TDP

Not applicable. CenturyLink reported Volume_Increase_Other as 0.

[38] *See* Response to Paragraph 81, Citation_FT_UPT.

Paragraph 84. Vol_Incr_Rev_Other_Expl
Where applicable, and if not already included in (12) (iv) above, provide a narrative explanation of how Vol_Incr_Rev_Other was calculated, including the type of other TDM business data services included, how these were denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VII. Variable Identifier 13(iv).

Response:

RCP
Not applicable. CenturyLink reported Vol_Incr_Rev_Other as 0.

TDP
Not applicable. CenturyLink reported Vol_Incr_Rev_Other as 0.

Paragraph 84. Overage_Resolution
In instances where an overage penalty was not actually paid, provide a narrative description of how it was ultimately resolved. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table VII. Variable Identifier 16.

Response:

RCP
CenturyLink has submitted data in Table VII identifying the monthly occurrences during the reporting period in which a customer's monthly recurring revenue in the RCP exceeded its commitment level. For each occurrence, CenturyLink provides an explanation in Table VII.

TDP
CenturyLink has submitted data in Table VII identifying the instances during the reporting period when a customer exceeded the 130 percent threshold in the TDP. For each instance, CenturyLink provides an explanation in Table VII.

B. Additional Detail for Other Data Entries Associated with Paragraph 84.

Table VII Fields—Table VII asks for detailed information on "overage occurrences," which appear to be defined as situations in which the customer's actual purchases exceeded the upper percentage threshold. As noted, the RCP does not include an upper percentage threshold. Any revenue in the plan—including that above the original commitment level—is subject to the RCP discount. At the time of an annual review, if the customer's revenue in the plan exceeds its original commitment level, the plan is adjusted to the customer's current revenue.

Table VII requests data for each "Overage Occurrence." While the RCP does not have an upper percentage threshold, CenturyLink has submitted data in Table VII identifying the RCP monthly occurrences during the reporting period in which a customer's monthly recurring revenue (or monthly circuit count, for customers on the grandfathered RCP) exceeded its volume commitment level. These data demonstrate that such "overages" seldom cause a customer's RCP commitment level to increase. Of the 298 monthly occurrences reported, only 10 resulted in a commitment increase. And those increases resulted after months of overage occurrences and discounts given.

XV. PARAGRAPH 90.

A. Paragraph 90 Narrative Responses.

Paragraph 90.
The incumbent LECs must submit in their direct cases data and information on the methodology used to determine the pricing levels for each of the term commitments in the pricing plans under review in this investigation and the data and calculations used to determine those discount levels. To assess the prevalence and therefore the impact of longer term plans, for each pricing plan under investigation, the incumbent LECs must submit in their direct cases the following data and information in Table VIII, annually for 2012 to 2014: (1) the tariff name, (2) the pricing plan name, (3) the full text (which may be attached in a searchable PDF format) and citation to the section of the pricing plan that includes and describes the plan's term discounts, not including rate tables, (4) the calendar year, (5) the total dollar amount of business data service purchases by competitive provider purchasers for each term length from 1 year to 10 years, (6) the total dollar amount of business data service purchases by mobile wireless providers for each term length from 1 year to 10 years, and (7) the total dollar amount of business data service purchases by end user purchasers, separately for each term length from 1 year to 10 years. In addition, the incumbent LECs must submit a narrative explanation of the basis for the term discounts, including any cost or efficiency justifications supporting those justifications.

Response:

Subparts (1) through (6) are addressed in Table VIII.

Basis for the Term Discounts: The RCP has a four-year term and the TDP offers discounts based on three- or five-year terms. CenturyLink has offered term discounts for decades. As noted, CenturyLink's predecessor companies introduced the RCP and TDP in the mid-1990s as a more flexible alternative to the circuit-specific term plans available at that time. Unlike those older plans, the RCP and TDP allowed customers to obtain discounted special access services without having to maintain a particular circuit in place for a certain period of time. Instead, the customers agreed to maintain a certain number of circuits or revenue for the multi-year term of the plan. By doing so, customers obtain rates that are less than the month-to-month rates for those services. Without a multi-year commitment, CenturyLink would incur costs to deploy and maintain services without a reasonable expectation of recovering those costs, potentially resulting in stranded facilities. Thus, without these term commitments, CenturyLink would have to charge higher recurring or non-recurring rates for these services.

B. Additional Detail for Other Data Entries Associated with Paragraph 90.

Note: For some agreements, Table VIII displays RCP data for a fifth or even sixth year (despite the fact that the RCP is a four-year plan). This occurs because of extensions allowed either from the initial onset of the plan or as a condition of the CenturyLink-Qwest merger.

XVI. PARAGRAPH 100.

A. Paragraph 100 Narrative Responses.

Paragraph 100. Termination_Fee_Desc
Narrative explanation of how termination fee was calculated, e.g., the number of circuit(s) that were terminated before the end date of the agreement, the number of months by which the termination date preceded the end date, and any additional factors used in calculating the termination fee. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table IX. Variable Identifier 4(ii).

Response:

RCP

Discontinuance of all DS1 and DS3 Services under the RCP before the end of its term will result in the application of a termination charge, as set forth in Section 7.1.8.[39] The Termination Liability percentage is 50% for DS1 and DS3 Service under RCP. The termination charge is calculated by multiplying the Termination Liability percentage by the current monthly charges and the number of months left in the RCP term.[40] For example, if a DS1 customer discontinues service after completing 27 months of its 48-month term, the termination charge will be the current monthly charges for the service multiplied by 50%, multiplied by 19 months.

A customer may choose to decrease its commitment level (excluding any circuits migrated consistent with the terms of Section 7.1.8(C)) before the end of the RCP term. This will also result in the application of a termination charge. In this situation, the termination charge is determined by multiplying the monthly recurring revenue decrease by the number of months remaining in the RCP and then multiplying the amount by 50%. For example, a decrease of $2,000 in monthly recurring revenue would be multiplied by10 remaining months, and then by 50% (the termination liability percentage), equaling $10,000.[41]

TDP

If a customer cancels its TDP service agreement prior to the expiration of the commitment period, the customer will be billed 50% of the monthly TDP charges for the remaining

[39] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 §§ 7.1.3.B.5.a; 7.1.8.

[40] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.8.B.

[41] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.3.B.5.a.

portion of the committed term. For example, a customer disconnecting in the 12th month of a three-year plan will be charged 50% of the remaining 24 months of billing.[42]

A customer will also be billed a termination charge if they decrease their commitment level under the TDP while keeping the remaining commitment in place. For example, assume a customer has a commitment level of 150 channel terminations and/or multiplexers, and then decreases its commitment level to 125. In this situation, the customer would pay a termination liability charge on the most recently disconnected 25 facilities, inclusive of all associated rate elements.[43]

Paragraph 100. Not_Maintained_Other_Expl
Where applicable, provide a narrative explanation of how Not_Maintained_Other was calculated, including a description of the types of other TDM business data services involved, how each service is denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table IX. Variable Identifier 6(iv).

Response:

Not applicable. CenturyLink reported Not_Maintained_Other as 0.

Paragraph 100. Rev_Not_Maintained_Other_Expl
Where applicable, provide narrative explanation of how Rev_Not_Maintained_Other is defined, including the types of services, how each service is denominated, and the relevant units of measure. This question calls for a narrative response that must be submitted in the Word document per the instructions in the Introduction of this data template. Table IX. Variable Identifier 7(iv).

Response:

Not applicable. CenturyLink reported Rev_Not_Maintained_Other as 0.

XVII. PARAGRAPH 101.

A. Paragraph 101 Narrative Responses.

Paragraph 101.
In addition, the incumbent LECs subject to this investigation must submit in their direct cases for each tariff pricing plan under examination (1) a justification of the early termination fee and its amount, (2) a description of the methodology used to calculate the level of the early termination fee, (3) all relevant information and data used to calculate that fee, (4) to the extent early termination fees are intended to recover costs, the incumbent LECs must also produce all relevant cost data related to the setting of the early termination fees, (5)an explanation of the

[42] *See* CenturyLink Operating Companies Tariff F.C.C. No. 9 § 7.4.11(G).

[43] *Id.*

extent to which payments by a customer for service for a period of time prior to early termination offset an incumbent LEC's cost to deploy the service, and (6) an identification of and explanation for any instances in which an early termination fee exceeds either the price or the cost of deploying the facilities used in providing the service.

Response:

RCP

(1) *Justification of Early Termination and Its Amount* – Early termination fees are intended to enforce commitments made by the customer in exchange for plan discounts. Without these charges, customers could ignore their commitments without consequence.

(2) *Description of Methodology* – Discontinuance of all DS1 and DS3 Services under the RCP before the end of its term will result in the application of a termination charge, as set forth in Section 7.1.8.[44] The Termination Liability percentage is 50% for DS1 and DS3 Service under RCP. The termination charge is calculated by multiplying the Termination Liability percentage by the current monthly charges and the number of months left in the RCP term.[45] For example, if a DS1 customer discontinues service after completing 27 months of its 48-month term, the termination charge will be the current monthly charges for the service multiplied by 50%, multiplied by 19 months.

A decrease in the commitment level before the end of the RCP term will also result in the application of a termination charge. In this situation, the termination charge is determined by multiplying the monthly recurring revenue decrease by the number of months remaining in the RCP and then multiplying the amount by 50%. For example, a decrease of $2,000 in monthly recurring revenue would be multiplied by10 remaining months, and then by 50% (the termination liability percentage), equaling $10,000.[46]

(3) *Information and Data Used to Calculate Fee* – See response to subpart (2).

(4) *Relevant Cost Data* – Early termination fees are not meant to recover full costs; rather, they are intended to recover a portion of the costs incurred while providing an incentive for the customer to fulfill its commitment. Without such fees, a customer could commit to numerous circuits in the first month of its plan, allow CenturyLink to install the circuits, and then promptly disconnect all of the circuits without fulfilling its commitment. This would result in CenturyLink investing in the new circuits without compensation. In such situations, this fee helps offset some of the costs CenturyLink incurs while providing the services. These costs include cable and wire, equipment, labor, and maintenance.

[44] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 §§ 7.1.3.B.5.a; 7.1.8.

[45] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.8.B.

[46] *See* CenturyLink Operating Companies Tariff F.C.C. No. 11 § 7.1.3.B.5.a.

(5) *Extent to which Payments for a Prior Period of Time Offset ILEC's Cost* – The monthly rates are set to be at or above the cost of service. Thus, over time, the cost of facilities is recovered. Other costs are also incurred while providing the service through maintenance, repairs of damaged plant, upgrading equipment, and upgrading other parts of its network needed to provide the service. While the ILEC charges for the service, it is able to recover the cost. However, if the customer disconnects prematurely, the ILEC cannot recover the cost because the revenue stream stops with the disconnection.

(6) *Identification and Explanation of Instances in which an Early Termination Fee Exceeds Price or Cost of Deploying Facilities* – Because the early termination fee is 50% of the remaining revenue commitment, the early termination will never be greater than the price of the service; it will at most be one half of the price of the service. Because early termination is incurred only when the customer cancels its commitment before the end of the term, and because the early termination is at most 50% of the remaining revenue of the services cancelled, early termination itself will only be higher than the cost of deploying facilities under limited circumstances.

TDP

(1) *Justification of Early Termination and Its Amount* – Early termination fees are a means to enforce commitments made by the customer in exchange for plan discounts. Without these charges, customers could ignore their commitments without consequence.

(2) *Description of Methodology* – If a customer cancels its TDP agreement prior to the expiration of the commitment period, the customer will be billed 50% of the monthly TDP charges for the remaining portion of the committed term. For example, a customer disconnecting in the 12th month of a three year plan will be charged 50% of the remaining 24 months of billing.[47]

A customer will also be billed a termination charge if it decreases its commitment level under the TDP while keeping the remaining commitment in place. For example, assume a customer has a commitment level of 150 channel terminations and/or multiplexers, and then decreases its commitment level to 125. In this situation, the customer would pay a termination liability charge on the most recently disconnected 25 facilities, inclusive of all associated rate elements.[48]

(3) *Information and Data Used to Calculate Fee* – See response to subpart (2).

(4) *Relevant Cost Data* – Early termination fees are not meant to recover full costs; rather, they are intended to recover a portion of the costs incurred while providing an incentive for the customer to fulfill its commitment. Without such fees, a customer could commit to numerous circuits in the first month of its plan, allow CenturyLink to install the circuits, and then promptly disconnect all of the circuits without fulfilling its commitment. This would result in CenturyLink investing in the new circuits without

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[47] *See* CenturyLink Operating Companies Tariff F.C.C. No. 9 § 7.4.11(G).

[48] *Id.*

compensation. In such situations, this fee helps offset some of the costs CenturyLink incurs while providing the services. These costs include cable and wire, equipment, labor, and maintenance.

(5) *Extent to which Payments for a Prior Period of Time Offset ILEC's Cost* – The monthly price of service is set to be at or above the cost of service. Thus, over time, the cost of facilities is recovered. Other costs are also incurred while providing the service through maintenance, repairs of damaged plant, upgrading equipment, and upgrading other parts of its network needed to provide the service. While the ILEC charges for the service, it is able to recover the cost. However, if the customer disconnects prematurely, the ILEC cannot recover the cost because the revenue stream stops with the disconnect.

(6) *Identification and Explanation of Instances in which an Early Termination Fee Exceeds Price or Cost of Deploying Facilities* – Because the early termination fee is 50% of the remaining revenue commitment, the early termination will never be greater than the price of the service; it will at most be one half of the price of the service. Because early termination is incurred only when the customer cancels its commitment before the end of the term, and because the early termination is at most 50% of the remaining revenue of the services cancelled, early termination itself will only be higher than the cost of deploying facilities under limited circumstances.

XVIII. PARAGRAPH 105.

A. Paragraph 105 Narrative Responses.

Paragraph 105.
We therefore direct the incumbent LECs under investigation to include in their respective direct cases the submission of all special access commercial agreements between them and competitive LECs that include tariffed special access services, the rates or terms of which impact, directly or indirectly, the rates paid for tariffed special access services. This includes agreements which contain discounts, credits, waivers, refunds, or other benefits for non-TDM services or other non-tariffed services that effectively impact the overall price paid for both tariffed special access services and other services offered in the agreement. In addition to the submission of these agreements, we also require incumbent LECs separately to identify as part of their direct cases all discounts, credits, waivers, refunds, or other benefits for purchasers included in each such commercial agreement submitted. For each discount, credit, waiver, refunds or other benefit, the incumbent LEC must also identify the basis for determining the amount of the benefit. Specifically, the incumbent LEC must identify all instances in which the amounts of any such benefits or credits approximate the amount a purchaser would otherwise have to pay in nonrecurring charges or in circuit termination penalties under a tariff.

Response:

The CenturyLink ILECs under investigation in this docket (*i.e.*, Qwest Corporation and Embarq) have identified five commercial agreements with CLECs that are currently operational and appear to fit within the scope of the request in Paragraph 105.[49]

Several of these commercial agreements involve CLECs that have taken issue with the tariff discount plans under investigation in this docket. Those same CLECs fail to mention that, contrary to their advocacy in this and other dockets, they were not "locked-in" to the RCP or TDP. Rather, prior to expiration of the term of their RCP and/or TDP agreements, the CLECs' negotiated new commercial arrangements with CenturyLink, to replace those RCP and/or TDP agreements. The new agreements include mutually beneficial terms and address the CLECs' individual service needs. As a result of such replacement agreements, as well as the on-going migration to Ethernet services, the RCP and TDP have both seen a decline in demand. CenturyLink remains poised to negotiate with any customer that approaches it with a need for a commercial agreement to address its specific needs. The special access marketplace is vigorously competitive, and CenturyLink continually works to remain competitive in that marketplace, by finding the right balance of discounts and appropriate terms and conditions for the services carriers choose to purchase.

As directed, CenturyLink is submitting copies of those agreements, along with any corresponding amendments, as part of this response. For each of these agreements and amendments, CenturyLink previously filed a contract-based tariff with the Commission summarizing the material terms in the agreement or amendment that are related to tariffed special access services. CenturyLink is submitting copies of those contract-based tariffs in this response as well. CenturyLink obtained FCC special permission to file most of these contract-based tariffs, which required FCC staff review of those tariffs prior to filing.

The following chart identifies the file names of these documents:

Paragraph 105 Attachments	
No.	**Description**
A-1	*Contract*
A-2	Embarq Tariff (12-001)
A-3	Qwest Tariff (12-003)
A-4	*Contract Amendment*
A-5	Embarq Tariff (12-001)
A-6	Qwest Tariff (12-003)
B-1	*Contract*
B-2	*Contract Amendment*
B-3	Qwest Tariff (10-003)

[49] By "currently operational" commercial agreements, we mean those under which a CLEC is currently taking service.

C-1	*Contract*
C-2	Embarq Tariff (15-002)
C-3	Qwest Tariff (15-005)
D-1	*Contract*
D-2	*Contract Amendment*
D-3	Embarq Tariff (13-001)
D-4	Qwest Tariff (13-001)
E-1	*Contract*
E-2	Embarq Tariff (13-002)
E-3	Qwest Tariff (13-012)
F-1	*Contract*
F-2	Embarq Tariff (14-001)
F-3	Qwest Tariff (14-011)

Paragraph 105 also requires ILECs to identify all discounts, credits, waivers, refunds or other benefits included in each commercial agreements submitted, and the basis for determining these benefits. CenturyLink does so in Highly Confidential Attachment G.